

DELETING

THE AREA & BOUNDARY EXCEPTION

“When is ‘deleting’ really adding?”

When you delete the **Area & Boundary Exception** on a Texas Title Insurance Policy!



As with so much legal language, the “Area & Boundary Exception” item on title insurance policies and the updated versions of several TREC Contracts is confusing for anyone unfamiliar with industry jargon. To start, here’s a basic glossary of terms:

Survey

A representation of the property prepared by a licensed provider depicting measurements of area, boundary lines, structures, fences, easements, and other permanent features of a property, both visible on the ground and as recorded in documents in the public record.

Area & Boundaries Exception

The language on Schedule B of a title commitment and title policy that says the title insurer is not liable for discrepancies in boundary lines, other people’s structures built over property lines, and other similar issues that would be shown on a survey of the property.

Amendment to Area & Boundaries Exception

With a satisfactory survey plat reviewed and approved by the title company, the buyer may choose to remove the Area & Boundary Exception, which adds some coverage back into the Owner’s Title Policy. The cost to the responsible party (as determined by the contract) is 5% of the basic title insurance premium for a residential policy.

Get it? When a buyer chooses to delete the Area & Boundary Exception they add coverage to their title policy!

TREC Contracts

With the Texas Real Estate Commission’s most recent update to the promulgated One-To-Four Family Contract, effective June 1st, 2014, this has become an active decision to be made by the potential homebuyer making an offer. Here’s the language as amended in the new version of the contract in paragraph 6 (A)(8):

(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements: (i) will not be amended or deleted from the title policy; (ii) will be [~~Buyer at Buyer’s expense, may have the exception~~] amended to read, “shortages in area” at the expense of Buyer Seller.

Owner's Title Policy

Here is the complete boilerplate language on the Texas Owner's Title Insurance Policy, with the exception to items on the Area & Boundary Exception in place:

TITLE RESOURCES GUARANTY COMPANY
TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE
ONE-TO-FOUR FAMILY RESIDENCES (T-1R)

SCHEDULE B
EXCEPTIONS

We do not cover loss, costs, attorneys' fees and expenses resulting from:

1. The following restrictive covenants of record itemized below (We must either insert specific recording data or delete this exception):
Volume 4700, Page 124, Deed and Plat Records, Volume 1049, Page 171, Volume 1095, Page 385, Volume 1188, Page 477, Volume 1193, Page 87, Volume 1525, Page 233 and Volume 1535, Page 484, Deed Records, Bexar County, Texas, but omitting any covenant or
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Homestead or community property or survivorship rights, if any, or any spouse of any insured. (Applies to the Owner's Policy only.)

And here is the same paragraph with the Area & Boundary Exception Amended:

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2. ~~Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.~~
3. Homestead or community property or survivorship rights, if any, or any spouse of any insured. (Applies to the Owner's Policy only.)

As you see, there is more coverage in the second example because there are fewer exceptions left in the policy – and yes, the procedure is to literally line through the deleted items. Some examples of scenarios where the homeowner would be protected include:*

- A utility company requires removal of improvements that are located in an easement.
- Buyers used a pre-existing survey prepared for a previous owner. In many cases, the surveyor is only liable to the homeowners who purchased the survey.
- The Homeowners' Association claims improvement are built over a building line and demand improvements be removed
- A neighbor claims insured improvements are over the property line into their property.

*These examples are for illustrative purposes only and do not necessarily represent actual coverage on any specific property via any specific title policy.

Cost

Again, the cost to the responsible party is 5% of the basic title premium. To figure the exact cost of this coverage, use Independence Title's Title Premium calculator! You can find it on the web at www.IndependenceTitle.com in the Tools section under Calculators, or find it in the App Store when you search ITC Connect.